

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MARY PRZYTULA and BRAD BREDE, on
behalf of themselves and all others similarly
situated,**

Plaintiffs,

v.

BED BATH & BEYOND INC.,

Defendant.

No. 17 Civ. 5124

DECLARATION OF KEN LEASURE

I, KEN LEASURE, based on my personal knowledge of the facts stated herein, testify by Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters contained in this Declaration, and if so called, would testify to the facts below.
2. All of the statements in this Declaration are true and accurate to the best of my knowledge.
3. The facts set forth in this Declaration are based on my own personal knowledge of the particular stores in which I have worked and of the stores that I oversee in my District.
4. I became employed by Bed Bath and Beyond Inc. ("BBB") on March 18, 2002 as a Department Manager. I was eventually promoted to the position of Assistant Store Manager ("ASM") and then to Store Manager. In March of 2011, I was promoted to Area Manager and served in that role for approximately 1.5 years until I was promoted to my current role as a District Manager in 2012. In my current capacity as a District Manager, I oversee 8 stores

primarily ranging in volume from low volume to mid volume, with one very high volume store. My stores are primarily in Texas, and I have 3 stores in Arkansas.

5. Typically, a BBB District Manager has responsibility for a number of stores in a particular geographic area. Reporting to the District Manager are Store Managers, each of whom is responsible for a single store. The Store Managers, in turn, have Assistant Store Managers reporting to them. In my District, each store has between 1 and 3 ASMs. Each store has between 0 and 2 Department Supervisors who report to the ASMs. ASMs also oversee hourly store associates. The number of hourly associates varies greatly from store to store, with my lower volume stores having fewer than 20 associates and my very high volume store having 50.

6. There are two types of ASMs at BBB: Operations Managers and Merchandise Assistant Managers. All ASMs in my District are classified as exempt employees.

7. Both Operations Managers and Merchandise Assistant Managers are expected to do primarily exempt work. The responsibilities required of an ASM vary as a result of a number of factors.

8. One of these factors is store volume. While their exempt responsibilities remain the same, their individual experience varies. For example, in low volume stores where there may only be 1 ASM, they are typically always involved in the hiring and interviewing process together with the Store Manager than in a high volume store where there are more ASMs available to assist with the process.

9. Similarly, local management and the Store Manager of each store affect an ASM's experience. If a Store Manager is laidback, often times the ASMs take on the role of holding associates accountable and issuing the discipline. Conversely, if a Store Manager is

stricter, ASMs sometimes may take a more passive role with respect to discipline so as to avoid discouraging their associates.

10. The personality of each ASM also plays a role, as some ASMs prefer to do some operational tasks themselves, whereas others delegate more tasks.

11. The length of time each ASM has served in their position also affects the amount of time they spend performing managerial duties. Sometimes, newly promoted ASMs tend to fall back into their old role and perform as a Department Supervisor or associate rather than performing the exempt duties expected of them in their new position as ASM.

12. Additionally, ASMs are designated as the "Leader on Duty," ("LOD") which affords them an opportunity to assume extra exempt responsibilities. Serving as the LOD means that the person designated as LOD is the decision maker for the store, managing service levels, safety, applicant flow and other areas. In higher volume stores, there is a LOD from opening to closing, whereas in lower volume stores, there is only a LOD from 11 a.m. to 6 p.m. Further, in higher volume stores, the LOD role is typically always fulfilled by ASMs, whereas in lower volume stores, Department Supervisors sometimes assist in the LOD role because there are fewer managers available.

13. In certain markets, BBB receives fewer employment applications than in other areas. For example, certain towns in Arkansas have a high ratio of retailers vs. local consumers, so there are typically fewer applicants throughout the year. Exempt duties such as reviewing applications, conducting interviews, and offering employment to applicants consumes more of an ASM's time in a store with a high applicant flow.

14. In my experience, ASMs are important members of management. They are the leaders of the store, in charge of assisting the Store Manager with running the store, and are

responsible for training and developing the associates. When a Store Manager is not at the store, the Assistant Store Manager is in charge of the entire store.

15. Adam Hall was employed as an Assistant Store Manager in Store 1275 in my District in Fort Smith, Arkansas. Store 1275 is a low volume store with only 1 ASM, 2 Department Supervisors, and approximately 20 associates. As an ASM, Adam lacked the ability to effectively manage his team. He had inappropriate personal relations with his associates outside of the store that impacted his ability to objectively manage the associates during work hours.

16. Adam also abused his managerial authority during his time as an ASM. Specifically, Adam was accused of propositioning one of his associates about joining him and his wife for sexual relations and allegedly conveyed to the associate that they were “swingers.”

17. We also received a complaint from a Department Supervisor that Adam sent inappropriate and explicit photographs through a social media platform.

18. After being confronted by the District Manager of Human Resources about these accusations, Adam’s performance drastically reduced.


19. Before the Company had the opportunity to fully investigate and act on these accusations, Adam voluntarily resigned from BBB.

20. Subsequent to his resignation, the Department Supervisor to whom Adam sent explicit photographs informed the Store Manager that Adam had allegedly entered the store in an employee-only area and exposed himself. The Store Manager called me to explain the situation, and I instructed him to call the police. By the time the police arrived at the store, Adam had already left. Approximately one week later, Adam returned to the store and accused the Store Manager of “ruining his life.”

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16 day of December 2017.

By:



Ken Leasure
District Manager
Bed Bath and Beyond Inc.